#### Multi-level Memorandums of Understanding (MOU)

AASHTO Conference Right-of-Way, Utilities, Design May 12, 2011



#### ROWU Scan

FHWA/AASHTO International Right-of-Way & Utilities (ROWU) Scanning Team Visits Australia and Canada in September 2008





#### ROWU Scan - Purpose

To learn about innovative practices that might be implemented in the United States





#### ROWU Scan - Finding

Two Australian states
(Queensland & New South
Wales) have developed MOUs
with major utility companies





#### ROWU Scan

#### Basic Australian MOU structure:

- A high-level MOU
- Several mid-level MOUs

Project-level Agreements





### High-Level MOU

- Developed by upper management personnel
- Sets forth general principles and the intent of both parties to work cooperatively



#### Mid-Level MOU

- Developed by middlemanagement personnel
- Defines roles and responsibilities, standards, specifications, and general procedures for the resolution of high priority conflicts





### Project-Level Agreements

- Developed to detail <u>contract-</u> <u>specific</u> provisions that higher-level MOUs do not address
- Similar to U.S. relocation agreements





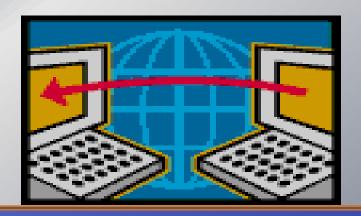
# MOU Study

- To compare U.S. partnering agreements to Australian MOUs
- Work began May 2009; ended
   August 2009



#### MOU Survey

- An electronic survey was sent to State
   Utilities Managers in 50 States, PR, DC
- The survey asked about their partnering agreements





#### Survey Responses

- 48 DOTs responses to the survey
- 10 DOTs interested in being pilot states to try Australian-type MOUs

Arkansas North Carolina

California Ohio

Illinois South Carolina

Missouri Tennessee

New Hampshire Utah







Australian and American partnering agreements are <u>similar</u> in their primary purpose (i.e., improving working conditions with utility companies)







- Maine DOT has MOU
- Ohio, California, and Texas DOTs are currently developing MOUs
- Other DOTs have master agreements, standard reimbursement agreements, or other project-specific partnering documents







Australian and American partnering agreements are <u>different</u> in levels of development (Australian MOUs were developed at a high organizational level; U.S. partnering agreements generally were developed at lower organizational levels)







Australian and American partnering agreements' reimbursement requirements differ (Australian utility companies are reimbursed 100% for relocations; U.S. utility companies with a few exceptions are only reimbursed if they have prior property rights)







Australian and American partnering agreements differ in terms of access to utilities (some Australian utility companies have unlimited access to the right-of way; DOTs in the U.S. have total control of the highway right-of-way)







Australian and American partnering agreements differ in stated conditions for noncompliance -- Australians have a "shared risk" process; U.S. partnering agreements are generally "non-binding"



#### Next Steps

- Find Pilot States
- Provide Technical Assistance
- Evaluate MOUs



# QUESTIONS

